

between Green and Gorman and Riddle, made on the 31st of January, 1845, Green waived his right to the commissions on any sum obtained by the two latter from the United States on their own receipt, but was to receive \$100 in case he had to pass his receipt therefor. By a subsequent agreement between them, he, Green, was to take an active part in obtaining the money, and was to be properly compensated therefor.

This case was, by order, dated the 17th of November, 1846, removed to this court, and the questions presented to the Chancellor arose on exceptions to the reports of the Auditor of the Baltimore County Court.]

THE CHANCELLOR :

It is said that Green, the trustee, must not only bring into court the sum of \$2,800, mentioned in the order, 12th of February, 1847, which was passed by consent; but he must also bring in the amount which he paid the counsel on the 2d of September, 1846, and the court is called upon by Putney and Gorman and Riddle to compel him to do so.

The argument of the counsel for Putney is, that a trustee who disburses money without competent authority, is chargeable, as if the money was in hand.

However true this may be with regard to a trustee appointed by this court to sell property, and bring the proceeds in to be disposed of under its orders, the principle cannot surely be applied with the same rigor to a trustee acting under a deed giving express authority to pay debts, and the circumstance, that the trustee in this case applied to the court for its direction and assistance in the execution of his trust, does not place him in the predicament of a trustee of the court's appointment, with powers limited and defined by the decree. If the trustee, notwithstanding his application to the court for directions, thinks proper himself to disburse the fund, he cannot be called upon to bring it into court, unless the disposition which he has made of it, is shown to be an improper one.

Now, so far as Gorman and Riddle are concerned, and to the extent of their interest in the fund, it would seem impossible,